

(Amendments to Standing Committee amendments, AM9013)

1 1. Insert the following new sections:
2 "Section 1. Section 28-105, Revised Statutes Supplement,
3 2002, is amended to read:
4 28-105. (1) For purposes of the Nebraska Criminal Code
5 and any statute passed by the Legislature after the date of passage
6 of the code, felonies are divided into nine classes which are
7 distinguished from one another by the following penalties which are
8 authorized upon conviction:
9 Class I felony Death
10 ~~Class IA felony Life imprisonment~~
11 ~~Class IA felony Life imprisonment without parole~~
12 Class IB felony Maximum -- life imprisonment
13 Minimum -- twenty years imprisonment
14 Class IC felony Maximum -- fifty years imprisonment
15 Mandatory minimum -- five years imprisonment
16 Class ID felony Maximum -- fifty years imprisonment
17 Mandatory minimum -- three years
18 imprisonment
19 Class II felony Maximum -- fifty years imprisonment
20 Minimum -- one year imprisonment
21 Class III felony Maximum -- twenty years imprisonment, or
22 twenty-five thousand dollars fine, or both
23 Minimum -- one year imprisonment
24 1 Class IIIA felony ... Maximum -- five years imprisonment, or
25 2 ten thousand dollars fine, or both
26 3 Minimum -- none
27 4 Class IV felony Maximum -- five years imprisonment, or ten
28 5 thousand dollars fine, or both
29 6 Minimum -- none
30 7 (2) All sentences of imprisonment for Class IA, IB, IC,
31 8 ID, II, and III felonies and sentences of one year or more for
32 9 Class IIIA and IV felonies shall be served in institutions under
33 10 the jurisdiction of the Department of Correctional Services.
34 11 Sentences of less than one year shall be served in the county jail
35 12 except as provided in this subsection. If the department certifies
36 13 that it has programs and facilities available for persons sentenced
37 14 to terms of less than one year, the court may order that any
38 15 sentence of six months or more be served in any institution under
39 16 the jurisdiction of the department. Any such certification shall
40 17 be given by the department to the State Court Administrator, who
41 18 shall forward copies thereof to each judge having jurisdiction to
42 19 sentence in felony cases.
43 20 (3) Nothing in this section shall limit the authority
44 21 granted in sections 29-2221 and 29-2222 to increase sentences for
45 22 habitual criminals.
46 23 (4) A person convicted of a felony for which a mandatory
47 24 minimum sentence is prescribed shall not be eligible for probation.
48 25 Sec. 17. Section 83-1,105.01, Reissue Revised Statutes
49 26 of Nebraska, is amended to read:
50 27 83-1,105.01. Except when a term of life imprisonment
51 1 without parole is required by law, in imposing an indeterminate
52 2 sentence upon an offender the court shall:
53 3 (1) Fix the minimum and maximum limits of the sentence to
54 4 be served within the limits provided by law for any class of felony
55 5 other than a Class IV felony, except that when a maximum limit of
56 6 life is imposed by the court for a Class IB felony, the minimum
57 7 limit may be any term of years not less than the statutory
58 8 mandatory minimum. If the criminal offense is a Class IV felony,
59 9 the court shall fix the minimum and maximum limits of the sentence,
60 10 but the minimum limit fixed by the court shall not be less than the

11 minimum provided by law nor more than one-third of the maximum term
12 and the maximum limit shall not be greater than the maximum
13 provided by law;
14 (2) Impose a definite term of years, in which event the
15 maximum term of the sentence shall be the term imposed by the court
16 and the minimum term shall be the minimum sentence provided by law;
17 or
18 (3)(a) When the court is of the opinion that imprisonment
19 may be appropriate but desires more detailed information as a basis
20 for determining the sentence to be imposed than has been provided
21 by the presentence report required by section 29-2261, the court
22 shall commit an offender to the Department of Correctional Services
23 for a period not exceeding ninety days. The department shall
24 conduct a complete study of the offender during that time,
25 inquiring into such matters as his or her previous delinquency or
26 criminal experience, social background, capabilities, and mental,
27 emotional, and physical health and the rehabilitative resources or
1 programs which may be available to suit his or her needs. By the
2 expiration of the period of commitment or by the expiration of such
3 additional time as the court shall grant, not exceeding a further
4 period of ninety days, the offender shall be returned to the court
5 for sentencing and the court shall be provided with a written
6 report of the results of the study, including whatever
7 recommendations the department believes will be helpful to a proper
8 resolution of the case. After receiving the report and the
9 recommendations, the court shall proceed to sentence the offender
10 in accordance with any applicable provision of law. The term of
11 the sentence shall run from the date of original commitment under
12 this subdivision.
13 (b) In order to encourage the use of this procedure in
14 appropriate cases, all costs incurred during the period the
15 offender is held in a state institution under this subdivision
16 shall be the responsibility of the state and the county shall be
17 liable only for the cost of delivering the offender to the
18 institution and the cost of returning him or her to the appropriate
19 court for sentencing or such other disposition as the court may
20 then deem appropriate."
21 2. On page 12, line 18; and page 14, line 20; after
22 "imprisonment" insert "without parole".
6 4. On page 17, line 18; and page 20, lines 18 and 20,
7 after "imprisonment" insert "without parole".
8 5. Renumber the remaining sections and correct internal
9 references and repealer accordingly.